

**SECESSION AS AN EXPRESSION OF THE RIGHT TO SELF-
DETERMINATION IN INTERNATIONAL LAW: A CRITICAL ANALYSIS
OF THE KOSOVO INDEPENDENCE**

By

EFEVWERHAN DAVID IGHOJOHWEGBA

**Thesis Submitted to the Centre for Graduate Studies, Universiti Utara
Malaysia, in Fulfillment of the Requirement for the Degree of Doctor of
Philosophy**

CERTIFICATION OF THESIS WORK

PERMISSION TO USE

In presenting this thesis as a fulfillment of the requirement for the Degree of Doctor of Philosophy (Ph.D.) of Universiti Utara Malaysia, I hereby agree that the Library of the University may have free access to this thesis for use. I also agree that permission to copy the thesis in any form, in whole or some parts or portions of it, for academic purposes, may be granted by the core supervisor of the thesis, Associate Professor, Dr. Rusniah Bt. Ahmad, Ph.D., or in her absence; by the Dean of the Ghazali Shafie Graduate School of Government to which this thesis is submitted.

It is understood that any copying or publication or use of this thesis or part of it, therefore, for the purpose of financial gains, shall not be allowed without the prior notice or permission from the authorized persons or College. Similarly, due recognition shall be given to me and the Universiti Utara Malaysia for any scholarly use which may be made of any of the materials presented in this thesis.

Request for permission to copy or to make use of materials in this thesis in whole or in part shall be addressed to:

**Dean
Ghazali Shafie Graduate School of Government,
Universiti Utara Malaysia,
06010, Sintok,
Kedah Darul Aman
Malaysia.**

ABSTRAK

Kajian ini mengkaji mengenai dua prinsip penting di dalam undang-undang antarabangsa iaitu prinsip pemisahan (*secession*) dan penentuan hak sendiri (*self-determination*) dengan menggunakan Kosovo sebagai kajian kes. Kajian ini juga melihat sama ada terdapatnya hak di dalam undang-undang antarabangsa berkaitan dengan pemisahan dan sama ada pemisahan Kosovo adalah sah di sisi undang-undang antarabangsa. Konsep “*people*” sebagai pewaris kepada “*self-determination*” juga dikaji dengan hasrat kepada suatu cadangan diberikan kepada makna “*people*” yang berfungsi dan diterima. Kajian ini menganalisa secara komprehensif terhadap keputusan “International Court of Justice” (Mahkamah Keadilan Antarabangsa) mengenai kemerdekaan Kosovo yang telah diputuskan pada Julai 2010. Analisa secara komprehensif juga dibuat terhadap kes-kes pemisahan di negara-negara lain yang berlaku sebelumnya dan mendapati tidak terdapat suatu hak yang umum mengenai hak terhadap pemisahan di dalam undang-undang antarabangsa. Kajian ini menggunakan kaedah kajian undang-undang doktrin dan berdasarkan kajian perpustakaan. Hanya ini sahaja kaedah kajian yang sesuai dalam menyelidiki perihal peraturan perundangan dan menganalisisnya berdasarkan fakta-fakta kajian kes. Namun, hasil kajian ini juga mendapati bahawa dalam keadaan-keadaan yang tertentu, pemisahan akan diiktiraf sebagai suatu penyelesaian *remedial* kepada pertelingkahan mengenai penentuan hak sendiri (*self-determination*). Kes-kes lain mengenai bantahan dan penerimaan konsep pemisahan di dalam undang-undang antarabangsa juga dibincangkan. Kajian ini mencadangkan suatu definisi yang berfungsi menjelaskan makna “*people*” dan berpendapat bahawa pemisahan Kosovo berada di dalam skop pemisahan *remedial* yakni yang dibenarkan. Akhirnya, kajian ini juga memberikan cadangan-cadangan yang akan memberikan faedah kepada pembuat polisi, pemegang taruhan dalam undang-undang antarabangsa, penasihat undang-undang termasuk juga kumpulan-kumpulan yang memperjuangkan pemisahan dan dengan ini juga membantu meletakkan dakwaan-dakwaan dan hujahan-hujahan mereka di dalam perspektif yang lebih teratur. Dengan itu juga mengurangkan tindakan keganasan dan pertumpahan darah yang tidak perlu yang selalunya dikaitkan dengan konflik-konflik pemisahan sebegini.

Kata-kata Kunci

Penentuan diri, Pemisahan, Kosovo, Perisytiharan Kemerdekaan Secara Bersendirian, Tanggungjawab Bukan Pengiktirafan

ABSTRACT

This study examines the twin principles of self-determination and secession in international law, using the Kosovo secession as a case study, with a view to making a finding whether there is an international law right to secession and whether the Kosovo secession was legal in international law. It also examines the concept of “people” as the beneficiaries of self-determination with a view to proposing a functional and acceptable definition of “people”. The study also does a comprehensive analysis of the ICJ Ruling on the Kosovo independence which was delivered in July 2010, while this research was still in its advance stages. The study does a comprehensive factual and legal analysis of previous secession cases in resolving the issues above and has concluded that there is no general international law right to secession. This study is purely a doctrinal legal and library-based research. The only reliable way to do these is by enumerating the established rules and analyzing them in the light of the facts of the case study. It however reveals that in exceptional circumstances, secession will be recognized as a remedial solution to self-determination disputes. Other circumstances in which secession is either supported or opposed in international law are also listed. It also proposes a functional definition of “people” and opined that the Kosovo secession comes within the scope of a remedial secession. Finally, the study has made recommendations towards containing the oft violent crisis engendered by secessionist conflicts. The findings and recommendations will be very useful to policy makers, stakeholders in international law, legal advisors as well as secessionist groups. They will help in putting secessionist claims in their proper perspectives thus, eliminating or at least reducing needless violence and bloodshed associated with such conflicts.

Keywords

Self-determination, Secession, Kosovo, Unilateral Declaration of Independence, Duty of Non-Recognition

ACKNOWLEDGEMENTS

Space will not be sufficient to acknowledge everyone that has contributed in one way or the other, to the completion of the work of this magnitude. I must first and foremost, however, give thanks and glory to the Almighty God, who not only stood by me and guided me at every stage of this work, but also gave me the zeal and zest to successfully complete this study.

I am indebted to my supervisors, Associate Prof. Dr. Rusniah Ahmad, whose motherly mien and disposition towards me, encouraged me to work harder; and Dr. Mohd Azizuddin Mohd Sani, whose quest for perfection saved me a lot of worries that would have hounded me during the *viva voce* examination. I remain grateful to my internal reviewers, Dr. Ahmad Masum and Dr. Siva, for their insightful comments and suggestions.

My employer, Council of Legal Education, deserves mention for granting me the leave and offering the encouragement needed for the pursuit of this lofty height. In this regard, I am eternally grateful to Dr. Tahir Mamman, the Director-General of the Nigerian Law School; and Ernest Ojukwu Esq., Deputy Director-General and Head of the Enugu Campus of the Nigerian Law School. My colleague and friend, Dr. Raheem Kolawole Salman, whom I fondly call “papa”, earns my gratitude for all his promptings and wonderful advice. I must not fail to also mention the support and encouragement from Hon. Justice Innocent A. Umezulike, the Chief Judge of Enugu State and Hon. Justice Samuel O. Tonwe of the Delta State Judiciary of Nigeria.

I am grateful to my family for their understanding and support. To my father, Pa. Baldwin R. Efevwerhan, I am indebted for a good up-bringing and early character moulding that has brought me this far in life. My darling wife, Lois, my kids, Ephraim and Daisy; and my adoptive daughter, Vwarho, are deserving of honour for their understanding and for coping with my prolonged absence from home in the course of this programme.

TABLE OF CONTENTS

CERTIFICATION OF THESIS WORK	ii
PERMISSION TO USE	iii
ABSTRAK	iv
ABSTRACT	v
ACKNOWLEDGEMENTS	vi
TABLE OF CONTENTS	vii
LIST OF ABBREVIATIONS	x
LIST OF ACRONYMS	xi
LIST OF CASES	xii
CHAPTER ONE: INTRODUCTION	1
1.1. Background of the Study	1
1.2. Problem Statement	2
1.3. Research Questions	5
1.4. Objectives of the Study	6
1.5. Significance of the Research	8
1.6. Research Methodology	9
1.6.1. Research Design	9
1.6.2. Research Scope	9
1.6.3. Data Collection and Source of Data	10
1.6.4. Data Analysis	10
1.7. Literature Review	11
1.7.1. Self-Determination and Secession	11
1.7.2. Controversy over Who Constitutes “Peoples”	31
1.7.3. The Role of the International Community in the Secession of Kosovo... ..	42
1.8. Outline of Chapters	46
CHAPTER TWO: THE HISTORY OF KOSOVO AND THE CALL FOR INDEPENDENCE	48
2.1. Introduction	48
2.2. Kosovo (1912-1999)	48
2.3. UN Interim Administration of Kosovo under Resolution 1244 (1999)	57
2.4. Legal Basis for the International Interim Administration of Kosovo	60
2.5. Establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK)	66
2.6. The Constitutional Framework for Self-Government in Kosovo	68
2.7. Conclusion	70
CHAPTER THREE: THE PRINCIPLE OF SELF-DETERMINATION IN INTERNATIONAL LAW	72
3.1. Introduction	72
3.2. Origin of Self-Determination	72
3.3. The Wilsonian Era	81

3.4. The Russian Revolution and Leninist Self-Determination	88
3.5. Post World War I and the League of Nations Era	91
3.6. United Nations Era.....	97
3.7. Regional and Supranational Impact on the Right to Self-Determination	116
3.8. Scope and Application of Self-Determination	126
3.8.1. External Self-Determination	126
3.8.2. Internal Self-Determination	133
3.8.3. Democracy: An Emergent International Bride	143
3.9. Who “Peoples” are	160
3.9.1. Territorial Interpretation of “people”	162
3.9.2. The Territorial Interpretation of “People” in Relation to Kosovo	172
3.9.3. Disjunctive or Groups’ Interpretation of “People”	174
3.9.4. The Disjunctive or Groups’ Interpretation of “People” in Relation to Kosovo	200
3.10. Conclusion	204
CHAPTER FOUR: THE PRINCIPLE OF SECESSION IN INTERNATIONAL LAW	207
4.1. Introduction.....	207
4.2. Secession and other forms of Dismemberment.....	207
4.3. Secession and International Law	210
4.4. Secession in the Cold War and Post-Cold War Era	221
4.5. New Trends in Secession	235
4.6. Whether there is an International Law Right to Secession	247
4.6.1. Remedial Secession	248
4.6.2. Constitutional Secession	257
4.6.3. Secession in Exercise of Self-Determination by a Self-Determination Unit	262
4.6.4. Internationally Assisted Secession (Supervised Secession)	264
4.7. Recognition and Secession	268
4.8. United Nations and Recognition	270
4.9. Duty of Non-Recognition.....	275
4.10. Kosovo and Recognition.....	278
4.11. Conclusion	285
CHAPTER FIVE: THE KOSOVO SECESSION.....	288
5.1. Introduction.....	288
5.2. The Comprehensive Proposal for Kosovo Status Settlement	288
5.3. Key Provisions of the Comprehensive Proposal.....	292
5.4. The Troika.....	294
5.5. The Unilateral Declaration of Independence	296
5.6. The ICJ Opinion on Kosovo’s Declaration of Independence	302
5.6.1. Background of the Case	302
5.6.2. The Court’s Opinion	303
5.6.3. Analysis of the Case.....	308
5.7. Conclusion	322

CHAPTER SIX: ANALYSIS OF THE KOSOVO SECESSION	324
6.1. Introduction.....	324
6.2. Whether the Declaration of Independence by Kosovo was in Accordance with International Law Norms and Practices	325
6.3. Kosovo’s Secession under General International Law	326
6.4. Kosovo’s Secession under the Exceptions.....	327
6.5. Kosovo’s Secession under Remedial Secession	327
6.5.1. Whether Kosovo Albanians Are Considered as a “People”	329
6.5.2. Whether Kosovo Albanians’ Rights Were Violated.....	331
6.5.3. Whether Kosovo Albanians were prevented from Participation in Governance	333
6.5.4. Whether Secession was the only Viable Option	334
6.6. Kosovo: A Unique Case.....	337
6.8. Conclusion	342
CHAPTER SEVEN: CONCLUSIONS AND RECOMMENDATIONS	344
7.1. Conclusions.....	344
7.2. Recommendations.....	353
BIBLIOGRAPHY	363

LIST OF ABBREVIATIONS

AJIL	....	American Journal of International Law
Am. Soc'y Int'l L. Proc.	....	American Society of International Law Proceedings
ASIL Insights	....	American Society of International Law Insights
B.U. Int'l L.J.	....	Boston University International Law Journal
Buff. Hum. Rts. L. Rev.	....	Buffalo Human Rights Law Review
Cal. W. Int'l L.J.	....	California Western International Law Journal
Chinese J. Int'l L.	....	Chinese Journal of International Law
Cornell Int'l L.J.	....	Cornell International Law Journal
Denv. J. Int'l L. & Pol'y	....	Denver Journal of International Law and Policy
EJIL	....	European Journal of International Law
Emory Int'l L. Rev	....	Emory International Law Review
Hastings Const. L.Q.	....	Hastings Constitutional Law Quarterly
Hum. Rts. Br.	....	Human Rights Brief
ICLQ	....	International and Comparative Law Quarterly
ILSA J Int'l & Comp L.	....	ILSA (International Law Students Association) Journal of International & Comparative Law
Loy. L.A. Int'l & Comp. L. Rev.	....	Loyola of Los Angeles International & Comparative Law Review
Minn. J. Int'l L.	....	Minnesota Journal of International Law
Or. Rev. Int'l L.	....	Oregon Review of International Law
Pac. Rim L. & Pol'y J.	....	Pacific Rim Law and Policy Journal
Tul. J. Int'l & Comp. L.	....	Tulane Journal of International and Comparative Law
U. Chi. L. Rev.	....	University of Chicago Law Review
U. Pa. J. Int'l L.	....	University of Pennsylvania Journal of International Law
Va. J. Int'l L.	....	Virginia Journal of International Law
Vand. J. Transnat'l L.	....	Vanderbilt Journal of Transnational Law
Yale J. Int'l L.	....	Yale Journal of International Law
Yale L.J.	....	Yale Law Journal

LIST OF ACRONYMS

ASEAN	Association of South East Asian Nations
AU	African Union
CIS	Commonwealth of Independent States
COE	Council of Europe
CSCE	Council for Security and Co-operation of Europe
EC	European Council
ECOWAS	Economic Community of West African States
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
FRY	Federal Republic of Yugoslavia
ICJ	International Court of Justice
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
NATO	North Atlantic Treaty Organization
OAS	Organization of American States
OAU	Organization of African Unity
OSCE	Organization for Security and Co-operation of Europe
SFRY	Socialist Federal Republic of Yugoslavia
UDI	Unilateral Declaration of Independence
UN	United Nations
UNCfN	United Nations Council for Namibia
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNMIK	United Nations Interim Administration Mission in Kosovo
UNTAET	United Nations Transitional Administration in East Timor
UNTEA	United Nations Temporary Executive Authority
USA	United States of America
USSR	Union of Soviet Socialist Republics

LIST OF CASES

Aaland Islands Case (Commission of Jurists), LNOJ, Sp Supp 3 (1920)....	32, 95, 168
Aaland Islands Case (Commission of Rapporteurs), LN Doc. B7.21/68/106, (1921)	
.....	96, 169
Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo ICJ Advisory Opinion, July 22, 2010.....	199
Burkina Faso v. Republic of Mali (1986) ICJ Reports 554	24
Case Concerning East Timor (Portugal v. Australia), ICJ Reports (1995) 90.....	104
Genocide Case, (Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Preliminary Objections, (Bosnia and Herzgovina v. Yugoslavia)) ICJ Reports (1996) 595	104
Kantagese Peoples' Congress v. Zaire, African Commission on Human and Peoples' Rights, Comm. No. 75/92, 1995.....	15, 190, 315, 329
<i>Maersk Dubai</i> Case (Re Republic of China and Romania <i>et al</i>) 109 C.C.C. (3 rd) 348 (1996)	4
Namibian Opinion, ICJ Reports (1971) 16	127
Reference re Secession of Quebec (1998) 2 SCR 217	170
Territorial Dispute (Libya v. Chad) ICJ Reports 1994, p. 6	166
Texas v. White (1869) 74 US (7 Wallace) 700.....	22
Western Sahara Case ICJ Reports (1975) 12	127, 203

CHAPTER ONE: INTRODUCTION

1.1. Background of the Study

Following the intervention of NATO in Kosovo, due to humanitarian concerns arising from ethnic fighting between Serbs and Kosovo-Albanians in 1999, the United Nations set up an interim administration under Security Council Resolution 1244 (1999) to oversee the affairs of Kosovo pending a peaceful resolution to the crisis and the Security Council's determination of the future status of Kosovo *vis a vis* Serbia (then Federal Republic of Yugoslavia). Attempts by the UN Secretary General's envoy, Martti Ahtisaari and the Troika (USA, Russia and the EU) to reach an amicable solution failed.

So, on February 17, 2008, Kosovo declared independence from Serbia. The declaration has been recognized by at least 85 UN member nations,¹ including the U.S. and some EU nations. Serbia, Russia and some other states condemned the declaration as a violation of international norms. But the US and Britain insist that the Kosovo situation is unique, unprecedented and ought to be recognized. With the active support of Russia, Serbia has successfully requested the UN General Assembly to refer the Kosovo independence issue for the advisory opinion of the

¹ See list at http://en.wikipedia.org/wiki/International_recognition_of_Kosovo last visited on November 16, 2011

The contents of
the thesis is for
internal user
only

BIBLIOGRAPHY

1. "Thawing a Frozen Conflict: Legal Aspects of the Separatist Crisis in Moldova", *The Record*, Vol. 61, No. 2 (2006) 196 (Publication of the Association of the Bar of the City of New York) available at http://www.abcnny.org/Publications/record/vol_61_2.pdf last visited February 26, 2009
2. Abi-Saab, G., "Conclusion", in Kohen, M.G., (ed.), *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 470
3. Abulof, U., "'Small Peoples': The Existential Uncertainty of Ethno-national Communities", *International Studies Quarterly* (2009) 53, p. 227
4. Addo, M.K., "Political Self-Determination Within the Context of the African Charter on Human and Peoples' Rights", 32 *Journal of African Law* (1988) 182
5. Akehurst's *Modern Introduction to International Law*, (7th ed.), New York, Routledge, 1997
6. Alfredsson, G., "The Right of Self-Determination and Indigenous Peoples", in Tomuschat, C., (ed.), *Modern Law of Self-Determination*, Dordrecht, Martinus Nijhoff Publishers, 1993, p. 41
7. Archaeological Study Bible, New International Version, Grand Rapids, Zondervan, 2005
8. Attix, C., "Between the Devil and the Deep Blue Sea: Are Taiwan's Trading Partners Implying Recognition of Taiwanese Statehood?", 25 *Cal. W. Int'l L.J.* 357 (1995)
9. Barktus, V.O., *The Dynamic of Secession*, Cambridge, Cambridge University Press, 1999
10. Bauböck, R., "Why secession is not like divorce", in Goldmann, K., (ed.), *Nationalism and Internationalism in the Post-Cold War Era*, London, Routledge, 2000, p. 214
11. Bayefski, A.F., *Self-Determination in International Law: Quebec and Lessons Learned*, The Hague, Kluwer Law International, 2000
12. Berlin, A.H., "Recognition as Sanction: Using International Recognition of New States to Deter, Punish, and Contain Bad Actors", 31 *U. Pa. J. Int'l L.* 531 (2009)
13. Bieber, F., "Power-sharing and International Intervention: Overcoming the Post-conflict Legacy in Bosnia and Herzegovina" in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, p. 193
14. Bisset, A., *History of the Commonwealth of England: From the Death of Charles I to the Expulsion of the Long Parliament by Cromwell*, London, John Murray, 1867
15. Blay, S., "Self-Determination: A Reassessment in the Post-Communist Era", 22 *Denv. J. Int'l L. & Pol'y* (1994) 275
16. Borgen, C. J., "Imagining Sovereignty, Managing Secession: The Legal Geography of Eurasia's 'Frozen Conflicts'", 9 *Or. Rev. Int'l L.* 477, (2008)
17. Borgen, C.J., "Kosovo's Declaration of Independence: Self-Determination, Secession and Recognition", *ASIL Insights*, Vol. 12 (2), 2008, available at <http://www.asil.org/insights080229.cfm> last visited October 19, 2010

18. Brierly, J.L., *Law of Nations*, 6th (ed.), Oxford, Oxford University Press, 1963
19. Brilmayer, L., "Secession and Self-Determination: A Territorial Approach", 16 *Yale J. Int'l L* (1991) 177
20. Brownlie, I., *Principles of Public International Law*, 6th ed., Oxford, 2003
21. Buchanan, A., "Democracy and Secession", in Moore, M. (ed.), *National Self-Determination and Secession*, Oxford, Oxford University Press, 1998, p. 14
22. Buchanan, A., "The International Institutional Dimension of Secession", in Lehning, P.B., (ed.), *Theories of Secession*, London, Routledge, 1998, p.225
23. Cassese, A., *International Law*, Oxford, Oxford University Press, 2nd (ed.), 2005
24. Cassese, A., *Self Determination of Peoples: A Legal Reappraisal*, Cambridge, Cambridge University Press, 1995
25. Clapham, A., "Secession, Terrorism and the Right of Self-Determination", in Kohen, M.G., ed., *Secession: International Law Perspectives*, Cambridge, Cambridge University Press, 2006, p. 46
26. Conforti, B., *The Law and Practice of the United Nations*, Leiden, Martinus Nijhoff Publishers, 2005
27. Coppieters, B., "Conclusion: Just War Theory and the Ethics of Secession", in Coppieters, B., and Sakwa, R., (ed.), *Contextualizing Secession: Normative Studies in Comparative Perspective*, Oxford, Oxford University Press, 2003, p. 225
28. Crawford, J., "State Practice and International Law in Relation to Unilateral Secession", Report on Quebec Secession Case, reproduced in Bayefski, A.F., *Self-Determination in International Law: Quebec and Lessons Learned*, The Hague, Kluwer Law International, 2000, p. 31
29. Crawford, J., *The Creation of States in International Law*, Oxford, Oxford University Press, 2nd (ed.), 2006
Criekemans, D., "Final Status Negotiations on Kosovo within the UN Security Council", University of Antwerp, December 2007, pp. 25-27, available at http://www.vvn.be/files/u1/CASUS_KOSOVO_2007_DEFINITIEF.pdf last visited October 19, 2010
30. Cristescu, A., The Right to Self-Determination, Historical and Current Development on the Basis of United Nations Instruments, UN Doc. E/CN.4/Sub.2/404/Rev.1, UN Sales No. E.80.XIV.3 (1981)
31. D'Amato, A., "The Invasion of Panama Was a Lawful Response to Tyranny", 84 *AJIL* 516 (1990)
32. Delahunty, R.J., and Perez, A.F., "The Kosovo Crisis: A Dostoevskian Dialogue on International Law, Statecraft, and Soulcraft", 42 *Vand. J. Transnat'l L.* 15 (2009)
33. Downes, P., *Democracy, Revolution and Monarchism in Early American Literature*, Cambridge, Cambridge University Press, 2002
34. Dubinsky, G., "The Exceptions That Disprove the Rule? The Impact of Abkhazia and South Ossetia on Exceptions to the Sovereignty Principle", 34 *Yale J. Int'l L.* (2009) 241
35. Dugard, J., and Raic, D., "The Role of Recognition in the Law and Practice of Secession", in Kohen, M.G., (ed.), *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 94
36. Dumberry, P., "Lessons Learned from the Quebec Secession Reference before the Supreme Court of Canada", in Kohen, M.G., (ed.) *Secession:*

- International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 416
37. Efevwerhan, D.I., *The Principle of Non-Intervention: How Sacrosanct? An Appraisal of the Act of Intervention in the Liberian, Sierra Leonean, Gulf and Kosovo Wars*, 2002, (unpublished), being LL.M. dissertation submitted to the University of Benin, Nigeria
 38. Emerson, R., "Self-Determination", 65 AJIL (1971) 459
 39. Erika de Wet, "The Governance of Kosovo: Security Council Resolution 1244 and the Establishment and Functioning of EULEX", 103(1) AJIL (2009) 83
 40. Falola, T., *The History of Nigeria*, Westport, CT., Greenwood Publishing Group, 1999
 41. Farer, T. J., "Panama: Beyond the Charter Paradigm", 84 AJIL 503 at 507 (1990)
 42. Fierstein, D., "Kosovo's Declaration of Independence: An Incident Analysis of Legality, Policy and Future Implications", 26 B.U. Int'l L.J. 417 (2008)
 43. Figgis, J.N., *The Divine Right of Kings*, Cambridge, Cambridge University Press Archives, 1934
 44. Fitzpatrick, S., *The Russian Revolution*, New York, Oxford University Press, 2001
 45. Franck, T.M., "The Emerging Right to Democratic Governance", 86 AJIL 46 (1992)
 46. Gilbert, G., "Autonomy and Minority Groups: A Right in International Law?" 35 Cornell Int'l L.J. 307(2002)
 47. Grant, T.D., *Admission to the United Nations: Charter Article 4 and the Rise of Universal Organization*, Leiden, Koninklijke Brill NV, 2009
 48. Greene, K., "Are International Institutions Doing Their Job?", International Responses to Secessionist Conflicts, Proceedings of the American Society of International Law, March 27-30, 1996, 90 Am. Soc'y Int'l L. Proc. 296 (1996)
 49. Groarke, P., *Dividing the State*, Aldershot, Ashgate Publishing Ltd., 2004
 50. Hannum, H., "Rethinking Self-Determination", 34 Va. J. Int'l L. 1, (1993)
 51. Hannum, H., "Self-Determination in the Twenty-First Century", in Hannum, H., and Babbitt, E.F., ed., *Negotiating Self-Determination*, Oxford, Lexington Books, 2006, p. 61
 52. Hannum, H., *Autonomy, Sovereignty and Self-Determination: The Accommodation of Conflicting Rights*, (Revised ed.), University of Pennsylvania Press, 1996
 53. Harris, D.J., *Cases and Materials on International Law*, London, Sweet and Maxwell, 6th ed., 2004
 54. Harris, J.P., 'Kosovo: An Application of the Principle of Self-Determination', 6 Hum. Rts. Br. 28 (1999)
 55. Higgins, R., *Problems and Process*, Oxford, Oxford University Press, 1994
 56. Hilpold, P., "The Kosovo Case and International Law: Looking for Applicable Theories", 8 Chinese J. Int'l L. 47 (2009)
 57. Hunt, J., *French Revolution*, London and New York, Routledge, 1998
 58. Ijalaye, D.A., "Was Biafra at Any Time a State in International Law?", 65 AJIL (1971) 551
 59. Jansen, G.R., "Albanians and Serbs in Kosovo: An Abbreviated History An Opening for the Islamic Jihad in Europe", Colorado State University,

- available at <http://lamar.colostate.edu/~grjan/kosovohistory.html> last visited October 10, 2010
60. Jarve, P., "Gagauzia and Moldova: Experiences in Power-sharing", in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, p. 307
 61. Jia, B.B., "The Independence of Kosovo: A Unique Case of Secession?", 8 Chinese J. Int'l L. 27, (2009)
 62. Kelsen, H., "Recognition in International Law: Theoretical Observations", AJIL 35 (1941) 605
 63. Khan, A.L., *A Theory of International Terrorism: Understanding Islamic Militancy*, Leiden, Martinus Nijhoff Publishers, 2006
 64. Kheyap, T., "Homeless But Not Hopeless: How the Tibetan Constitution Governs a People in Exile", 36 Hastings Const. L.Q. 353 (2009)
 65. Kiwanuka, R.N., "The Meaning of 'People' in the African Charter on Human and Peoples' Rights", 82 AJIL 80 (1988)
 66. Knoll, B., "From Benchmarking to Final Status? Kosovo and the Problem of an International Administration's Open-Ended Mandate", 16 EJIL 637 (2005)
 67. Knoll, B., *The Legal Status of Territories Subject to Administration by International Organisations*, Cambridge, Cambridge University Press, 2008
 68. Knop, K.C., *Diversity and Self-Determination in International Law*, Cambridge, Cambridge University Press, 2002
 69. Krieger, H., (ed.) *The Kosovo Conflict and International Law: An Analytical Documentation, 1974-1999*, Cambridge International Documents Series, Vol. 11, Cambridge, Cambridge University Press, 2001
 70. Lalonde, S., *Determining Boundaries in a Conflicted World: The Role of Uti Possidetis*, Montreal, McGill-Queen's University Press, 2002
 71. Lata, L., *Structuring the Horn of Africa As a Common Homeland : Conflict Resolution Through Multi-Dimensional Self-Determination*, Waterloo, Wilfrid Laurier University Press, 2004
 72. Lavranos, N., "The Entering Into Force of the Lisbon Treaty – A European Odyssey", ASIL Insight, Vol. 13, No. 26, December 14, 2009, available at <http://www.asil.org/insights091214.cfm> last visited January 18, 2010
 73. Ludwig, R., "The UN's Electoral Assistance: Challenges, Accomplishments, Prospects", in Newman, E., and Rich, R., ed., *UN Role in Promoting Democracy : Between Ideals and Reality*, Tokyo, United Nations University Press, 2004, p.169
 74. Lung-chu, C., and Reisman, W.M., "Who Owns Taiwan: A Search for International Title", 81 Yale L.J. 599 (1972)
 75. Lyew, B.H., "An Examination Of The Philippines' Anti-Terror Law", 19 Pac. Rim L. & Pol'y J., (2010) 187
 76. Manela, E., *The Wilsonian Moment: Self-Determination and the International Origins of Anti-colonial Nationalism*, Oxford University Press, 2007
 77. Martinez-Paoletti, J., "Rights and Duties of Minorities in a Context of Post-Colonial Self-Determination: Basques and Catalans in Contemporary Spain", 15 Buff. Hum. Rts. L. Rev. (2009) 159
 78. Mayall, J., "Nationalism, Self-Determination and the Doctrine of Territorial Unity", in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination*

- Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, p.5
79. McWhinney, E., *Self Determination of Peoples and Plural-Ethnic States in Contemporary International Law*, Leiden, Martinus Nijhoff, 2007
 80. McPhee, P., *Social History of France, 1789-1914*, London, Palgrave Macmillan, 2004
 81. Milano, E., "Security Council Action in the Balkans: Reviewing the Legality of Kosovo's Territorial Status", 14 EJIL 999 (2003)
 82. Moore, M., "Introduction", in Moore, M., (ed.), *National Self-determination and Secession*, Oxford, Oxford University Press, 1998, p. 1
 83. Müllerson, R., "Precedents in the Mountains: On the Parallels and Uniqueness of the Cases of Kosovo, South Ossetia and Abkhazia", 8 Chinese J. Int'l L. 2, (2009)
 84. Musgrave, T.D., *Self-Determination and National Minorities*, Oxford, Oxford University Press, 1997
 85. Nanda, V.P., "The New Dynamics of Self-Determination: Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era", 3 ILSA J Int'l & Comp L. 443 (1997)
 86. Nanda, V.P., "The Validity of United States Intervention in Panama under International Law", 84 AJIL 494 (1990)
 87. Newman, E., "UN Democracy Promotion: Comparative Advantages and Constraints", in Newman E., and Rich, R., ed., *UN Role in Promoting Democracy : Between Ideals and Reality*, Tokyo, United Nations University Press, 2004, p. 188
 88. Nolte, G., 'Secession and External Intervention', in Kohen, M.G., (ed.) *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 65
 89. O'Leary, B., "Complex Power-sharing in and over Northern Ireland: A Self-determination Agreement, a Treaty, a Consociation, a Federacy, Matching Confederal Institutions, Intergovernmentalism, and a Peace Process", in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, p. 61
 90. Okeke, C.N., *The Theory and Practice of International Law in Nigeria*, Enugu, Fourth Dimensions Publishers, 1986
 91. Okoronkwo, P.L., "Self-Determination and the Legality of Biafra's Secession under International Law", 25 Loy. L.A. Int'l & Comp. L. Rev. 63
 92. Ouguergouz, F., and Tehindrazanarivelo, D.L., "The Question of Secession in Africa", in Kohen, M.G., (ed.) *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 257
 93. Pavkovic, A., and Radan, P., *Creating New States: Theory and Practice of Secession*, Ashgate Publishing, Ltd., 2007
 94. Pazartzis, P., "Secession and International Law: The European Dimension", in Kohen, M.G., (ed.) *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 355
 95. Pfirter, F.A., and Napolitano, S.G., "Secession and International Law: Latin American Practice", in Kohen, M.G., (ed.) *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 374
 96. Pipes, R., *The Formation of the Soviet Union: Communism and Nationalism, 1917-1923*, Harvard, Harvard University Press, 1997

97. Pomerance, M., *Self-Determination in Law and Practice: The New Doctrine in the United Nations*, The Hague, Martinus Nijhoff, 1982
98. Raic, D., *Statehood and the Law of Self-Determination*, The Hague, Kluwer Law International, 2002
99. Ratner, S. R., "Drawing a Better Line: Uti Possidetis and the Borders of New States", 90 AJIL 590 (1996)
100. Regan, A.J., "Resolving the Bougainville Self-determination Dispute: Autonomy or Complex Power-sharing?" in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, p. 125
101. Reisman, W.M., "Coercion and Self-Determination: Construing Charter Article 2(4)", 78 AJIL 642 (1984)
102. Reisman, W.M., "Haiti and the Validity of International Action", 89 AJIL 82 (1995)
103. Reisman, W.M., "Sovereignty and Human Rights in Contemporary International Law", 84 AJIL 866 at 871(1990)
104. Richardson, N., "Breaking Up Doesn't Have to be so Hard: Default Rules for Partition and Secession", 9 Chi. J. Int'l L. 685 (2009)
105. Rosas, A., "Internal Self-Determination", in Tomuschat, C., ed., *Modern Law of Self-Determination*, Dordrecht, Martinus Nijhoff Publishers, 1993, p. 225
106. Ruffert, M., "The Administration of Kosovo and East-Timor by the International Community", ICLQ 50(3) (2001) 613
107. Ryngaert, C. and Griffioen, C., "The Relevance of the Right to Self-Determination in the Kosovo Matter: In Partial Response to the Agora Papers", 8 Chinese J. Int'l L. 573 (2009)
108. Sanford, C.B., *The Religious Life of Thomas Jefferson*, Charlottesville, University Press of Virginia, 1984
109. Sautman B., and Dreyer, J.T., (eds.), *Contemporary Tibet: Politics, Development, and Society in a Disputed Region*, New York, M.E. Sharpe Inc., 2006
110. Schachter, O., "The Legality of Pro-Democratic Invasion", 78 AJIL 645 (1984)
111. Schneckener, U., "Third-party Involvement in Self-determination Conflicts", in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, p. 467
112. Shaw, M.N., *International Law*, 5th (ed.), Cambridge, Cambridge University Press, 2003
113. Shaw, M.N., *International Law*, 6th (ed.), Cambridge, Cambridge University Press, 2009
114. Shaw, M.N., *International Law*, London, Cambridge, 4th ed., 1997
115. Sterio, M., "On the Right to External Self-Determination: "Selfistans," Secession, and the Great Powers' Rule", 19 Minn. J. Int'l L. 137 (2010)
116. Sunstein, C.R., "Approaching Democracy: A New Legal Order for Eastern Europe" 58 U. Chi. L. Rev. 633 (1991)
117. Tancredi, A., "A Normative 'Due Process' in the Creation of States Through Secession", in Kohen, M.G., (ed.), *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 171

118. Thio, L., "International Law and Secession in the Asia and Pacific Regions", in Kohen, M.G., (ed.) *Secession: International Perspectives*, Cambridge, Cambridge University Press, 2006, p. 297
119. Thornberry, P., "The Democratic or Internal Aspect of Self-Determination with Some Remarks on Federalism", in Tomuschat, C., ed., *Modern Law of Self-Determination*, Dordrecht, Martinus Nijhoff Publishers, 1993, p. 101
120. Tomuschat, C., 'Secession and Self Determination', in Kohen, M.G., (ed.), *Secession: International Law Perspectives*, Cambridge, Cambridge University Press, 2006, p. 23
121. Turner, M., "Resolving Self-determination Disputes through Complex Power-sharing Arrangements: The Case of Mindanao, Southern Philippines" in Weller, M., and Metzger, B., (eds.), *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Leiden/Boston, Martinus Nijhoff Publishers, 2008, pp. 161
122. Turns, D., "The Stimson Doctrine of Non-Recognition: Its Historical Genesis and Influence on Contemporary International Law", 2 Chinese J. Int'l L. 105 (2003)
123. Umozurike, U.O., *Introduction to International Law*, Ibadan, Spectrum, 1993
124. van der Vyver, J.D., "Statehood in International Law", 5 Emory Int'l L. Rev. 9 (1991)
125. Vidmar, J., "International Legal Responses to Kosovo's Declaration of Independence", 42 Vand. J. Transnat'l L. 779 (2009)
126. Wade, R.A., *The Russian Revolution, 1917*, Cambridge, Cambridge University Press, 2005
127. Warbrick, C., "Kosovo: The Declaration of Independence", ICLQ 2008, 57(3), 675
128. Warbrick, C., "The New British Policy on Recognition of Governments", ICLQ 30(3) (1981) 568
129. Watson, K.W., "When in the Course of Human Events: Kosovo's Independence and the Law of Secession", 17 Tul. J. Int'l & Comp. L. 267 (2008)
130. Weller, M., "Kosovo's Final Status", International Affairs 84: 6 (2008) 1223–1243
131. Weller, M., *Escaping the Self Determination Trap*, Leiden/Boston, Martinus Nijhoff, 2008
132. Wilde, R., "From Danzig to East Timor and Beyond: The Role of International Territorial Administration" 95 AJIL (2001) 583
133. Wood, A., *The Origins of the Russian Revolution, 1861-1917*, (3rd ed.), London, Routledge, 2003
134. Wood, H.M., "The Treaty of Paris and Turkey's Status in International Law" 37(2) AJIL (1943) 262
135. Xanthaki, A., "The Right to Self-Determination: Meaning and Scope", in Ghanea, N., and Xanthaki, A., (ed.), *Minorities, Peoples and Self-Determination: Essays in Honour of Patrick Thornberry*, Leiden, Brill Academic Publishers, 2005
136. Zacklin, R., "Beyond Kosovo: The United Nations and Humanitarian Intervention", in Ku, C., and Diehl, P.F., (ed.), *International Law, Classic and Contemporary Readings*, Boulder, Lynne Rienner Publishers, 2003, p. 367